
(2017) 02 BOM CK 0084
In the Bombay High Court
Case No : Criminal Writ Petition No.35 of 2017

Rajasaab Mujawar

APPELLANT

Vs

State of Goa

RESPONDENT

Date of Decision : 27-02-2017

Acts Referred:

Prisons (Bombay Furlough and Parole) Rules, 1959 — Rule 4, Rule 6

Citation : (2017) 2 BomCR(Cri) 11 : (2017) 2 MhLJCrl 274

Hon'ble Judges : Anoop V. Mohta and Nutan D. Sardessai, JJ.

Bench : Division Bench

Advocate : Mr. T. George John, Advocate, for the Petitioner; Mr. S.R. Rivankar, Public Prosecutor, for the Respondents

Final Decision : Allowed

Judgement

Nutan D. Sardessai, J.—Rule. Rule made returnable forthwith. The learned Public Prosecutor waives service for the respondent. Heard finally by consent of the parties.

2. By this petition, the petitioner is challenging the order dated 10/10/2016 by which the first respondent had refused to release the petitioner on furlough.

3. Shri T. George John, learned Counsel on behalf of the petitioner contended that the sole ground on which the relief of furlough was denied was on the premise that there was an unfavorable report received from the Superintendent of Police, Dharwad. There was a similar order of refusal of furlough on an earlier occasion when this Court in Criminal Writ Petition No.174 of 2015 had granted the relief so denied on the similar ground vide Order dated 16/12/2015. There was no basis to refuse his release on furlough and the relief had to be granted in his favour.

4. Shri Rivankar, learned Public Prosecutor on behalf of the State submitted that the sole ground on which the prayer for his release on furlough was refused was on the basis of an adverse report from the Superintendent of Police, Dharwad

dated 19/09/2016. The report of the Superintendent of Police, Dharwad was to the effect that the petitioner was a convict and his family did not belong to Kundagol town and their native place was Mittlekod village, Taluka Kushtagi, District Koppal. The relatives of the petitioner were residing at Kundagol in a rented house and working as coolie and there was a possibility of breach of peace as also the petitioner absconding if he was released on furlough and hence the negative report.

5. We have heard the learned Counsel for the petitioner and the learned Public Prosecutor on behalf of the respondents.

6. It was not disputed on behalf of the respondent that when the petitioner was earlier released on furlough, there was no incident of any breach of peace or unavailability of the petitioner.

7. In that view of the matter as there has been considerable passage of time of one year since his last release on furlough, we do not find that merely a plea of possibility of breach of peace and of abscondance could be a valid ground of refusal of furlough. The petitioner can be put to appropriate conditions and therefore in the circumstances, the following order is passed :

ORDER

(i) The petition is allowed.

(ii) The petitioner shall be released on furlough as per rules, on executing a Personal Bond in the sum of Rs. 10,000/- (Rupees Ten Thousand Only), with one or two sureties in the like amount.

(iii) The petitioner shall furnish his address, where he would be staying during the period of his furlough along with proof.

(iv) The petitioner shall report to the nearest Police Station immediately on reaching his residence and thereafter, every week during the period of his release on furlough.

(v) The petitioner shall undertake to surrender on expiration of the period of furlough and during such period maintain good behaviour.

8. The petition is disposed off in the aforesaid terms. Rule is made absolute accordingly with no order as to costs.